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17 **Attorneys for Plaintiff**
18 FINJAN LLC

19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
21 **(SAN FRANCISCO DIVISION)**

22 FINJAN LLC

23 Case No. 3:14-cv-04908-JD

24 Plaintiff,

25 **FINJAN LLC'S REPLY IN SUPPORT OF**
26 **ITS OPPOSED MOTION FOR A**
27 **SCHEDULING ORDER**

28 v.

29 PALO ALTO NETWORKS, INC.,

30 Date: August 25, 2022

31 Defendant.

32 Time: 10:00am

33 Courtroom 11, 19th Floor

34 Hon. James Donato

1 PAN improperly seeks a *de facto* stay of this case without moving the Court to do so. As
2 detailed in Finjan’s motion, this nearly 8 year old case was already stayed more than 5 years to
3 allow PAN’s 13 IPRs and related appeals to run their course. That delay resulted in just 3 of the
4 more than 198 challenged claims being found unpatentable. Now PAN seeks another delay. It
5 argues that the Court should simply let this case languish without a scheduling order indefinitely
6 to allow Finjan’s other district court cases and Federal Circuit appeals to resolve in the hope that
7 they “*may* narrow issues in this case by eliminating patents or issuing claim construction or other
8 substantive decisions.” *See* Dkt. No. 192. PAN argues that the Court should take this approach
9 for reasons of judicial efficiency (*see id.*), but PAN merely seeks yet another delay in this case that
10 has been pending almost 8 years.

11 Furthermore, PAN’s reliance on the Federal Circuit’s pending decision in *Finjan v. ESET*
12 (“*ESET Appeal Decision*”) is just another excuse to further delay this case after already delaying
13 the case years for PAN’s largely unsuccessful IPRs. There can be no doubt this Court is fully
14 capable of dealing with whatever outcome, efficiently and effectively, whenever it should occur.

15 Finally, PAN’s purported concern with judicial resources does not comport with its own
16 actions. PAN had the opportunity to propose a schedule, including one that accounted for the
17 pending *ESET Appeal Decision* in response to Finjan’s offer to meet and confer to file a joint
18 stipulated proposed schedule. It refused to do so. In fact, PAN did not take issue with a single
19 date in Finjan’s proposed schedule that was presented to PAN and ultimately submitted to the
20 Court as Exhibit 1 to Finjan’s motion. Instead, PAN’s lack of cooperation in coming up with a
21 much needed joint schedule necessitated Finjan’s opposed motion and related pending hearing—
22 actually wasting both the parties’ and judicial resources to further delay this case.

23 There are no immediate prospects for settlement in sight as the parties have already had
24 multiple mediation sessions to no avail. With all respect, Finjan is entitled to a timely day in
25 Court and requests the Court enter the revised proposed case schedule included as Exhibit 1 to
26 Finjan’s motion. Dkt. No. 191; Dkt. No. 191-1.

27

28

1 Dated: August 8, 2022

Respectfully submitted,

2 /s/ Juanita R. Brooks

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